

On May 17, 1939,⁽¹⁰⁾ the House was considering H.R. 6264, relating to public works on rivers and harbors. The following then occurred:

MR. [JOSEPH J.] MANSFIELD [of Texas]: Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:⁽¹¹⁾ The gentleman will state it.

MR. RAYBURN: Were the House to adjourn at this time, would the present bill be pending business tomorrow?

THE SPEAKER: Answering the parliamentary inquiry of the gentleman from Texas, the Chair will state that the previous question having been ordered on the bill and all amendments to final passage, it would be the unfinished and privileged order of business tomorrow morning.

MR. RANKIN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Can these individual amendments then be voted on?

THE SPEAKER: A separate vote can be demanded on them when that question is reached.⁽¹²⁾

E. MOTIONS TO REFER OR RECOMMIT

§ 25. In General

There are in the rules of the House four motions to refer: the ordinary motion provided for in the first sentence of clause 4, Rule XVI⁽¹³⁾ when a question is "under debate;" the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage, provided in the

second sentence of clause 4, Rule XVI; the motion to commit, with or without instructions, pending the motion for or after the ordering of the previous question as provided in clause 1, Rule XVII;⁽¹⁴⁾ and the motion to refer, with or without instructions, pending a vote in the House on a motion to strike out the enacting clause as provided in clause 7, Rule XXIII.⁽¹⁵⁾ The terms "refer,"

10. 84 CONG. REC. 5682, 76th Cong. 1st Sess.

11. William B. Bankhead (Ala.).

12. See also 72 CONG. REC. 8964, 71st Cong. 2d Sess., May 14, 1930; and 72 CONG. REC. 7774, 71st Cong. 2d Sess., Apr. 25, 1930.

13. *House Rules and Manual* §782 (1981).

14. *House Rules and Manual* §804. See 5 Hinds' Precedents §5569.

15. *House Rules and Manual* §875 (1981).

“commit,” and “recommit” are sometimes used interchangeably,⁽¹⁶⁾ but when used in the precise manner contemplated in each rule, reflect certain differences based upon whether the question to which applied is “under debate,” whether a bill or joint resolution, a concurrent or simple resolution, or conference report, is under consideration, whether the motion itself is debatable, whether the motion may include instructions to report back “forthwith” with an amendment, and whether a minority member or a Member opposed to the question to which the motion is applied is entitled to a priority of recognition.

The motions may not be used in direct form in Committee of the Whole.⁽¹⁷⁾ It is in order for the Committee of the Whole to rise and report back to the House with the recommendation that the measure under consideration be recommitted, but such a motion is entertained only at the completion of reading the bill for amendment⁽¹⁸⁾ and then only in situations where the Committee of the Whole is proceeding under the general rules of the House.⁽¹⁹⁾

16. 5 Hinds' Precedents §5521; 8 Cannon's Precedents §2736.

17. 4 Hinds' Precedents §4721; 8 Cannon's Precedents §2326.

18. 4 Hinds' Precedents §§4761, 4762.

19. 8 Cannon's Precedents §2329.

Where, on the other hand, a bill is being considered under a special rule providing that after consideration for amendment the Committee automatically rises “and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion” at the conclusion of the amendment process under the five-minute rule, the motion is not in order, since precluded by the language of the special rule.⁽²⁰⁾ It cannot be combined in Committee of the Whole as part of a motion to rise with the recommendation that the enacting clause be stricken.⁽²¹⁾

The simple motion to refer under the first sentence of clause 4, Rule XVI is debatable within narrow limits,⁽¹⁾ but the merits of the proposition which it is proposed to refer may not be brought into the debate.⁽²⁾ It may include instructions or be amended to include instructions⁽³⁾ (so long as

20. See §26.5, *infra*, where special rule precluded such a motion, and see also discussions in Ch. 19 §23.12, *supra* (Committee of the Whole) under “Motions to Rise.”

21. See Ch. 19 §§10.10, 10.12, *supra*.

1. 5 Hinds' Precedents §5054.

2. 5 Hinds' Precedents §§5564–68; 6 Cannon's Precedents §§65, 549; 8 Cannon's Precedents §2740.

3. 5 Hinds' Precedents §5521.

those instructions are not to report back forthwith with an amendment if offered at the outset of consideration), may intervene at the outset⁽⁴⁾ but not after debate has begun in the House,⁽⁵⁾ and may be offered by any Member (who need not qualify as being in opposition to the pending question), when any bill or resolution is “under debate,” i.e., when the previous question has not been moved or ordered. The motion is debatable under the hour rule whether or not accompanied by instructions⁽⁶⁾ unless the previous question has been ordered thereon, and once disposed of, cannot be offered again at the same stage of the question on the same day.⁽⁷⁾

The motion to recommit a bill or joint resolution after the previous question shall have been ordered pending the question of final passage is provided in the second sentence of clause 4, Rule XVI, and recognition to offer that motion to recommit, whether a “straight” motion or with instructions, is the prerogative of a Member who is opposed to the bill or joint resolution,⁽⁸⁾ the Speaker looking first to

minority members of the committee reporting the bill, in order of their rank on the committee,⁽⁹⁾ then to other Members on the minority side,⁽¹⁰⁾ and then to a majority member who is opposed if no minority member qualifies.⁽¹¹⁾ The threshold question asked in qualifying a Member to offer the motion to recommit is, “Is the gentlemen (gentlewoman) opposed to the measure?” Beyond this, the Member entitled to offer the motion is determined by the Speaker’s power of recognition, but rulings indicate that the Speaker will follow the above-mentioned priorities in recognition. Basically, the motion is the prerogative of the minority, and recognition would be offered to a less senior minority member of the reporting committee in preference to a more senior majority member of that committee. A majority member of the reporting committee would have lower priority than a minority member not on the reporting committee.

The Chair no longer gives priority to Members opposed to the

4. 6 Cannon’s Precedents § 65.

5. 6 Cannon’s Precedents § 468; 8 Cannon’s Precedents § 2742.

6. 5 Hinds’ Precedents § 5561.

7. Rule XVI clause 4, *House Rules and Manual* § 782 (1981).

8. 100 CONG. REC. 3967, 83d Cong. 2d Sess., Mar. 29, 1954 [Speaker Joseph W. Martin (Mass.)].

9. 78 CONG. REC. 1396, 73d Cong. 2d Sess., Jan. 6, 1932 [Speaker John N. Garner (Tex.)]; 81 CONG. REC. 10638, 75th Cong. 1st Sess., July 2, 1935 [Speaker Joseph W. Byrns (Tenn.)].

10. 96 CONG. REC. 12608, 81st Cong. 2d Sess., Aug. 16, 1950 [Speaker Sam Rayburn (Tex.)].

11. 78 CONG. REC. 7327, 73d Cong. 2d Sess., Apr. 1, 1932 [Speaker John N. Garner (Tex.)].

measure in its entirety over those opposed to the measure “in its present form.”⁽¹²⁾ If the motion is ruled out on a point of order, its proponent or another qualifying Member is entitled to offer a proper motion to recommit.⁽¹³⁾ The Committee on Rules is precluded under clause 4(b), Rule XI⁽¹⁴⁾ from reporting a special rule which would prevent the motion to recommit from being made as provided in clause 4, Rule XVI (in the second sentence), although it may report a special rule limiting to a straight motion, or precluding certain instructions in, the motion to recommit which may be offered on a bill or joint resolution pending final passage.⁽¹⁵⁾

The motion to commit under clause 1, Rule XVII applies to resolutions, and to concurrent resolutions as well as to bills and joint resolutions,⁽¹⁶⁾ to conference reports in cases where the House is acting first on the report and to

motions, such as a motion to amend the Journal.⁽¹⁷⁾ It does not apply to a report from the Committee on Rules providing a special order of business,⁽¹⁸⁾ or to a pending amendment to a proposition in the House.⁽¹⁹⁾ Although a motion to commit under this clause, with instructions to report back forthwith with an amendment has been allowed after the previous question has been ordered on a motion to dispose of Senate amendments before the stage of disagreement,⁽²⁰⁾ a motion to commit under this clause does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion.⁽¹⁾ The motion to commit under clause 1, Rule XVII may be made pending the demand for the previous question on passage of a bill or adoption of a resolution,⁽²⁾ but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third

12. See §§27.8, 27.9, *infra*. These precedents supersede earlier precedents in which priority was accorded to Members totally opposed.

13. 8 Cannon's Precedents §2713.

14. *House Rules and Manual* §729a (1981).

15. H. JOUR. 47, 73d Cong. 2d Sess., Jan. 11, 1934 [Speaker Henry T. Rainey (Ill.)].

16. 5 Hinds' Precedents §§5572, 5573; 8 Cannon's Precedents §2742.

17. 5 Hinds' Precedents §5574.

18. *Id.* at §§5593–5601; 8 Cannon's Precedents §§2270, 2750.

19. 5 Hinds' Precedents §5573.

20. *Id.* at §5575; 8 Cannon's Precedents §§2744, 2745.

1. 122 CONG. REC. 30887, 94th Cong. 2d Sess., Sept. 16, 1976 [Speaker Carl Albert (Okla.)].

2. 5 Hinds' Precedents §5576.

reading and becomes, in effect, the motion as provided in the second sentence of clause 4, Rule XVI, and is not in order pending the demand or before the engrossment or third reading,⁽³⁾ or where the House has refused to order the third reading.⁽⁴⁾ When separate motions for the previous question are made, respectively, on the third reading and on the passage of a bill, the motion to commit should only be made after the previous question is ordered on passage.⁽⁵⁾ When the previous question has been ordered on a simple resolution and a pending amendment thereto, the motion to commit should be offered after the vote on the amendment.⁽⁶⁾ A motion to commit has been entertained after ordering of the previous question even before the adoption of rules at the beginning of a Congress.⁽⁷⁾ The same principles of recognition apply to the motion to commit under clause 1, Rule XVII as apply to the motion to recommit under the second sentence of clause 4, Rule XVI, but a motion under clause 1, Rule XVII to commit a resolution called up in the House as a privileged mat-

ter and not previously referred to committee does not depend on party affiliation or on opposition to the resolution.⁽⁸⁾ The motion to commit under this clause is not debatable,⁽⁹⁾ but may be amended, as by adding instructions, unless such amendment is precluded by moving the previous question on the motion to commit.⁽¹⁰⁾

The motion to refer is also provided in clause 7, Rule XXIII, which permits the offering of a motion to refer a measure to any committee, with or without instructions, pending concurrence in the House in a recommendation from the Committee of the Whole that the enacting clause of a measure be stricken. Since the recommendation that the enacting clause be stricken may interrupt and supersede the offering of amendments in Committee of the Whole, and since the motion to recommit pending the vote in the House on striking the enacting clause may be an alternative for those who oppose killing the bill, persuasive dicta in the precedents indicate that "the motion to recommit is made not by persons

3. *Id.* at §§ 5578–81.

4. *Id.* at §§ 5602, 5603.

5. *Id.* at § 5577.

6. *Id.* at §§ 5585–88.

7. 8 Cannon's Precedents § 2755.

8. 122 CONG. REC. 3920, 94th Cong. 2d Sess., Feb. 19, 1976 [Speaker Carl Albert (Okla.)].

9. 5 Hinds' Precedents § 5582.

10. *Id.* at §§ 5582–84; 8 Cannon's Precedents § 2695.

who favored the striking out of the enacting clause but by their opponents. The presumption would be that, having succeeded in the Committee, they would also succeed in the House and would wish to come to an immediate decision; and apparently the provision for a motion to refer was inserted so that the friends of the original bill might avert its permanent death by referring it again to committee, where it could again be considered in the light of the action of the House.”⁽¹¹⁾ Based upon this reasoning, it would not appear that the motion to recommit in this situation would be the prerogative of the minority or that the Member seeking recognition to offer it must qualify as being opposed to the bill. As indicated in Chapter 19, Sec. 11.14, *supra*, the motion has, however, been offered in the modern practice by the same Member who had successfully offered the motion in Committee of the Whole to rise with the recommendation that the enacting clause be stricken.

The motion to refer, commit, or recommit may in certain situations include instructions. The “straight” motion (i.e., without instructions) sends a measure to a specified committee and leaves the disposition thereof, together

with any amendments adopted by the House which may also have been referred, to the discretion of the committee. The straight motion to commit or recommit is not debatable where made pending the previous question or after the previous question has been ordered.⁽¹²⁾ The motion to refer, commit, or recommit may specify that the reference shall be to a select as well as a standing committee⁽¹³⁾ without regard for rules of jurisdiction,⁽¹⁴⁾ and may provide for reference to another committee than that reporting the bill,⁽¹⁵⁾ or to the Committee of the Whole,⁽¹⁶⁾ but not to a subcommittee.⁽¹⁷⁾ The straight motion and the motion with instructions are of equal privilege and have no relative precedence.⁽¹⁸⁾

The motion to commit or recommit with instructions, if made under the second sentence of clause 4, Rule XVI, is debatable for 10 minutes, five minutes in favor of the motion and five opposed, and only on a bill or joint resolution pending final passage.

11. 8 Cannon's Precedents § 2629.

12. 5 Hinds' Precedents § 5582.

13. 4 Hinds' Precedents § 4401.

14. *Id.* at § 4375; 5 Hinds' Precedents § 5527.

15. 8 Cannon's Precedents § 2696, 2736.

16. 5 Hinds' Precedents § 5552, 5553.

17. 8 Cannon's Precedents § 2739.

18. *Id.* at §§ 2714, 2758, 2762.

Instructions accompanying a motion to recommit may direct the committee(s) to which the measure is recommitted to take certain actions. Often the committee is instructed to report the measure back to the House immediately (“forthwith”) with an amendment contained in the instructions. However, unless provision is included in a special rule adopted by the House, it is not in order to do indirectly by a motion to recommit with instructions that which may not be done directly by way of amendment,⁽¹⁹⁾ such as to propose an amendment which is not germane, to propose to strike out or amend merely that which has already been inserted by way of amendment,⁽¹⁾ to propose an amendment in violation of clauses 2, 5, or 6 of Rule XXI,⁽²⁾ or to change the rules of the House by granting a committee leave to report at any time or requiring a report on a date certain.⁽³⁾ Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its con-

sideration in both the House and Committee of the Whole, it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title.⁽⁴⁾ The motion may not be accompanied by a preamble, argument, or explanation,⁽⁵⁾ and it may not be laid on the table where the previous question has been ordered or is pending on the measure to which applied.⁽⁶⁾ Only one proper motion to commit or recommit is in order, where the previous question has been ordered to final passage or adoption.⁽⁷⁾

Upon approval of the motion to recommit with instructions to report back forthwith with an amendment, this process is automatic and the committee is not required to convene and consider the measure. The chairman or other designated committee member rises and announces that pursuant to the instructions of the House, he is reporting the measure back to the House with the amendment which was included in the instructions.⁽⁸⁾ At this point

19. 5 Hinds' Precedents §5529-41; 8 Cannon's Precedents §2705.

1. 8 Cannon's Precedents §§2712, 2715, 2720, 2721.

2. *House Rules and Manual* §§834, 846, 847 (1981); see 5 Hinds' Precedents §5533-40.

3. 5 Hinds' Precedents §§5543, 5549.

4. H. JOUR. 47, 73d Cong. 2d Sess., Jan. 11, 1934 [Speaker Henry T. Rainey (Ill.)].

5. 5 Hinds' Precedents §5589; 8 Cannon's Precedents §2749.

6. 5 Hinds' Precedents §§5412-14.

7. *Id.* at §§5577, 5582; 8 Cannon's Precedents §2763.

8. See §§28.9, 32.23, 32.24, *infra*.

a vote is taken on the amendment,⁽⁹⁾ and on at least one occasion the House has defeated the amendment when so reported.⁽¹⁰⁾ Thus the offering of a motion to recommit with instructions may give the minority an opportunity to have its version of the pending measure placed before the House for a vote, subject to the restrictions on prior House adoption of amendments and depending upon any special authority conferred in a special rule reported from the Committee on Rules to offer a motion to recommit “with or without instructions” notwithstanding prior House adoption of an inconsistent amendment. However, the motion to recommit with instructions may be amended if the previous question is not ordered thereon, and a substitute which strikes out all of the proposed instructions and inserts others in their place is in order if germane to the pending measure, and has been held not to violate the right of the minority to move to recommit.⁽¹¹⁾ When a bill is recommitted it is before the committee as a new subject,⁽¹⁾ but the committee must confine itself to the instructions, if there be any.⁽²⁾

9. See §§32.23, 32.24, *infra*.

10. See §32.28, *infra*.

11. 8 Cannon's Precedents §2759.

1. 4 Hinds' Precedents §4557; 5 Hinds' Precedents §5558.

2. 4 Hinds' Precedents §4404; 5 Hinds' Precedents §5526.

Motion as Subject to Amendment

§ 25.1 A motion to recommit is subject to amendment unless the previous question is ordered thereon; and the previous question takes precedence of the motion to amend.

On Aug. 11, 1969,⁽³⁾ the House was considering H.R. 12982, the District of Columbia Revenue Act for 1969. After the bill was engrossed and read a third time, Mr. Alvin E. O'Konski, of Wisconsin, offered a motion to recommit. The following then occurred:

MR. [BROCK] ADAMS [of Washington]: Mr. Speaker, I have an amendment to the motion to recommit. MR. [JOHN L.] McMILLAN [of South Carolina]: Mr. Speaker, I move the previous question on the motion to recommit.

THE SPEAKER:⁽⁴⁾ The question is on ordering the previous question on the motion to recommit.

The question was taken; and on a division [demanded by Mr. Adams] there were—ayes 104, noes 65.

So the previous question was ordered.⁽⁵⁾

THE SPEAKER: The question is on the motion to recommit.

The motion to recommit was rejected.

3. 115 CONG. REC. 23143, 91st Cong. 1st Sess.

4. John W. McCormack [Mass.].

5. See also 84 CONG. REC. 3671, 76th Cong. 1st Sess., Mar. 31, 1939.

§ 25.2 In response to a parliamentary inquiry, the Speaker stated that a motion to recommit a bill is not amendable unless the previous question is voted down on the motion.

On May 6, 1970,⁽⁶⁾ the House was considering H.R. 17123, authorizing military procurement for fiscal 1971. After Mr. Alvin E. O'Konski, of Wisconsin, offered a motion to recommit the bill, Mr. Silvio O. Conte, of Massachusetts, rose with a parliamentary inquiry.

MR. CONTE: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:⁽⁷⁾ The gentleman will state it.

MR. CONTE: Mr. Speaker, is a motion to recommit amendable?

THE SPEAKER: Not unless the previous question is voted down.⁽⁸⁾

§ 25.3 Parliamentarian's Note: A point of order against an amendment to a motion to recommit is in order immediately following the reading of the amendment.

6. 116 CONG. REC. 14490, 91st Cong. 2d Sess.

7. John W. McCormack (Mass.).

8. See also 114 CONG. REC. 18940, 18941, 90th Cong. 2d Sess. June 26, 1968; and 101 CONG. REC. 9379, 84th Cong. 1st Sess., June 28, 1955.

Reference to Particular Committees

§ 25.4 A motion to recommit may provide for reference of the bill under consideration to any committee of the House.

On Aug. 7, 1950,⁽⁹⁾ the House was considering H.R. 8396, authorizing federal assistance to state and local governments in times of major disasters. The following then occurred.

MR. [KENNETH B.] KEATING [of New York]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:⁽¹⁰⁾ Is the gentleman opposed to the bill?

MR. KEATING: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Keating moves to recommit the bill to the Committee on Public Lands with instructions to report the same back forthwith with the following amendment: Page 2, line 6, after "President" insert "and the Congress of the United States". I make the point of order against the motion to recommit that it is a violation of the rules of the House for the bill to be recommitted to the Committee on Public Lands. The Committee on Public Works has jurisdiction of this bill.

THE SPEAKER: The gentleman may recommit it to any committee, as far as

9. 96 CONG. REC. 11914, 81st Cong. 2d Sess.

10. Sam Rayburn (Tex.).

that is concerned, but the Committee on Public Lands does not have jurisdiction over legislation of this character.

MR. KEATING: Mr. Speaker, I ask unanimous consent to change the word "Lands" to "Works."

THE SPEAKER: Is there objection to the request of the gentleman from New York?

There was no objection.

THE SPEAKER: The question is on the motion to recommit.

§ 25.5 The motion to recommit a measure may refer it to any committee of the House, and such motion need not necessarily refer the measure to the committee that originally reported it.

On Dec. 21, 1932,⁽¹¹⁾ the Committee of the Whole having considered H.R. 13742, to provide revenue by the taxation of a certain nonintoxicating liquor, reported the bill back to the House. After the engrossed copy was read the following occurred:

MR. [FRANK] CROWTHER [of New York]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:⁽¹²⁾ Is the gentleman opposed to the bill?

MR. CROWTHER: I am.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

11. 76 CONG. REC. 866, 72d Cong. 2d Sess.

12. John N. Garner (Tex.).

Mr. Crowther moves to recommit the bill (H.R. 13742) to the Committee on the Judiciary.

MR. CROWTHER: Mr. Speaker, on that motion I move the previous question.

MR. [JOHN J.] COCHRAN of Missouri:

Mr. Speaker, I make the point of order against the motion to recommit. This bill came from the Committee on Ways and Means, and the motion to recommit is to the Judiciary Committee. The precedents——

THE SPEAKER: This is not a question of precedent. You can move to recommit it to any committee of the House.

Recommittal to Committee Reporting Bill

§ 25.6 If the Committee of the Whole reports a bill back to the House with the recommendation that the enacting clause be stricken, a motion to recommit the bill to the committee reporting it is in order in the House.

On July 18, 1946,⁽¹³⁾ the Committee of the Whole having considered the bill S. 1717, relating to the development and control of atomic energy, a motion was made to report that bill back to the House with the recommendation that the enacting clause be stricken out. The following then occurred:

MR. [GRAHAM A.] BARDEN [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

13. 92 CONG. REC. 9355, 9356, 79th Cong. 2d Sess.

THE CHAIRMAN:⁽¹⁴⁾ The gentleman will state it.

MR. BARDEN: As I understand the parliamentary situation, if this motion prevails, when we go back into the House it would be proper to introduce a motion to recommit the bill back to the committee for further consideration; is that not correct?

THE CHAIRMAN: That is correct. . . . When we go back into the House, the House will vote whether or not they want to strike out the enacting clause.

MR. BARDEN: Mr. Chairman, instead of voting whether or not we want to strike out the enacting clause, will it not be a vote to recommit to the committee?

THE CHAIRMAN: After we go back into the House, a motion to recommit would be in order.

Permitting More Than One Motion

§ 25.7 Where a motion to recommit with an instruction was ruled out on a point of order, a second motion with another instruction was admitted.

On Apr. 28, 1932,⁽¹⁵⁾ the House was considering H.R. 11452, the Navy Department appropriations bill. The following then occurred:

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Speaker, I have a motion to recommit.

14. John J. Delaney (N.Y.).

15. 75 CONG. REC. 9147, 72d Cong. 1st Sess.

THE SPEAKER:⁽¹⁶⁾ Is the gentleman opposed to the bill?

MR. COLLINS: I am.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Collins moves to recommit the bill to the Committee on Appropriations with instructions to report the same back forthwith with the following amendment: On page 25, line 19, before the semicolon, insert "*Provided further*, That the total number of enlisted men in the ratings of bandmaster, first musician, musician first class and musician second class on April 18, 1932, shall be reduced by 355 by discontinuing new enlistments and reenlistments not continuous in such ratings and/or placing in such ratings men otherwise rated."

MR. [CARL R.] CHINDBLOM [of Illinois]: Mr. Speaker, a point of order. My understanding is that action was taken on this question by an amendment passed in the House. That was stricken out by an amendment.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, that is not a good point of order. The Speaker can not take cognizance of any action that has been taken in Committee of the Whole on the state of the Union except as reported to the House. The chairman of the committee reports only the facts as to amendments, and there was no report that any part of the bill had been stricken out.

THE SPEAKER: The gentleman from Illinois makes the point of order that the motion to recommit attempts to reinsert language that was stricken out of the bill in the House by agreeing to

16. John N. Garner (Tex.).

an amendment reported from the Committee of the Whole. The rulings are uniform that you can not undo in a motion to recommit that which the House has just disposed of, so the point of order is well taken.

MR. [JOHN C.] SCHAFER [of Wisconsin]: Mr. Speaker, I have a motion to recommit. I move that the bill be recommitted to the Committee on Appropriations with instructions to report it back after further consideration with 10 per cent reduction in the total amount of the appropriation.

THE SPEAKER: The Clerk will report the motion to recommit.

Effect of Special Order

§ 25.8 Where a special rule by its terms ordered the previous question at a certain time on a bill to final passage, it was held that a motion to recommit was in order notwithstanding the provisions of the special rule.

On Mar. 11, 1933,⁽¹⁷⁾ Mr. Joseph W. Byrns, of Tennessee, rose with the following resolution:

MR. BYRNS: Mr. Speaker, I offer the following resolution, move its adoption, and upon that motion I move the previous question.

The Clerk read as follows:

Resolution offered by Mr. Byrns:

“HOUSE RESOLUTION 32

“*Resolved*, That immediately upon the adoption of this resolution the

House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.”

MR. [GORDON] BROWNING [of Tennessee]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:⁽¹⁸⁾ The gentleman will state it.

MR. BROWNING: If this resolution is adopted, there will not be any privilege of amendment given to the House, under any consideration?

THE SPEAKER: There will not be.

MR. BROWNING: Would a motion to recommit be in order following the third reading of the bill?

THE SPEAKER: It would; yes.

§ 25.9 The Committee on Rules may not report any order or rule which shall operate to prevent the offering of a motion to recommit as provided in Rule XVI clause 4, but such restriction does not apply to a special rule which may prevent a motion to recommit with instructions to incorporate an amendment in a title to which such special rule precludes the offering of amendments.

17. 77 CONG. REC. 198, 73d Cong. 1st Sess.

18. Henry T. Rainey (Ill).

On Jan. 11, 1934,⁽¹⁹⁾ the following occurred on the floor of the House:

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, at the request of the Chairman of the Committee on Rules, the gentleman from North Carolina, I call up for consideration House Resolution 217 and ask that the same be reported.

The Clerk read as follows:

HOUSE RESOLUTION 217

Resolved, That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. . . .

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I make the point

19. 78 CONG. REC. 479, 480, 482, 483, 73d Cong. 2d Sess.

of order against the rule that it is not a privileged report from the Committee on Rules, on the ground that it violates the general rules of the House by denying the right to the minority to make the usual and regular motion to recommit.

THE SPEAKER:⁽²⁰⁾ The Chair will hear the gentleman from New York.

MR. SNELL: Mr. Speaker, as far as I am familiar with the rights of the Committee on Rules to make privileged reports, they are entitled to report a rule at any time, with the two exceptions, and these exceptions are specifically set forth in section 725, page 327, of the Manual:

The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of rule XXIV—

Which is the Calendar Wednesday rule—

shall be set aside by a vote of less than two-thirds of the Members present—

The next exception covers the point I am making in my point of order—

nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of rule XVI.

Paragraph 4 of rule XVI states the following:

After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order.

Also rule XVII, section 1, provides—

It shall be in order, pending the motion for or after the previous

20. Henry T. Rainey (Ill.).

question shall have been ordered on its passage, for the Speaker to entertain a motion to commit with or without instructions to a standing or select committee.

It has been the precedent of the House for a great many years that under no circumstances will the minority be prohibited from making a motion to recommit, and I have yet never heard anyone express a different opinion on policy or philosophy of the rules of the House. In this way the minority is allowed to place its position before the Congress, and, if enough Members approve of it, they are entitled to a roll-call vote. I have never heard anyone take a different position on the floor of the House. But it is evident, from what the gentleman from Alabama says, that they intend, by the particular wording of this rule, to take advantage of the situation and to deny the minority the right of making such a motion. For this reason I maintain the rule is subject to the point of order. . . .

THE SPEAKER: The Chair is prepared to rule. The gentleman from New York makes the point of order that the Committee on Rules has reported out a resolution which violates the provisions of clause 45, rule XI, which are as follows:

The Committee on Rules shall not report any rule or order . . . which shall operate to prevent the motion to recommit being made as provided in clause 4, rule XVI.

The pertinent language of clause 4, rule XVI is as follows:

After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order and

the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or resolution.

The special rule, House Resolution 217, now before the House, does not mention the motion to recommit. Therefore, any motion to recommit would be made under the general rules of the House. The contention of the gentleman from New York that this special rule deprives the minority of the right to make a motion to recommit is, therefore, obviously not well taken. The right to offer a motion to recommit is provided for in the general rules of the House, and since no mention is made in the special rule now before the House it naturally follows that the motion would be in order.

A question may present itself later when a motion to recommit with instructions is made on the bill H.R. 6663 that the special rule which is now before the House may prevent a motion to recommit with instructions which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill H.R. 6663 it would not be in order after the adoption of the special rule to move to recommit the bill with instructions to incorporate an amendment in title II of the bill. The Chair therefore, holds that the motion to recommit, as provided in clause 4, rule XVI, has been reserved to the minority and that insofar as such rule is concerned the special rule before the House does not de-

prive the minority of the right to make a simple motion to recommit. The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order. For the reasons stated, the Chair overrules the point of order.

Explaining the Motion

§ 25.10 In response to a parliamentary inquiry, the Chair indicated that following the reading and amendment of the final section of a bill, he would still recognize a Member to move to strike out the last word in order to explain a motion to recommit to be subsequently offered in the House but not then debatable.

On July 31, 1969,⁽¹⁾ the Committee of the Whole was considering H.R. 13111, Labor and HEW appropriations for fiscal 1970. The following occurred:

MR. [CHARLES S.] JOELSON [of New Jersey]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:⁽²⁾ The gentleman will state it.

MR. JOELSON: Section 409 is the last section of the bill. I understand there will be an explanation of a proposed

motion to recommit. Will there be time to explain the motion and time for me to comment on it?

THE CHAIRMAN: There will be time. Section 409 has not yet been read. Section 409 still must be read. The Chair will certainly recognize any Member after the section has been read, providing it is not for the purpose of offering an amendment to section 408 or section 409. In fact, the Chair will recognize the chairman for a perfecting amendment after that.

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Chairman, I have no intention of attempting to foreclose a motion, if there is one —and I do not know that there will be—to recommit. I have no intention of foreclosing explanations, if there are any, by any opponent of the motion to recommit.

THE CHAIRMAN: The Chair is pleased to have that statement, because the Chair had promised the gentleman who will offer the recommittal motion to recognize him for 5 minutes when he moves to strike out the last word, after the Committee concludes action on sections 408 and 409, for an explanation of his motion to recommit.

Recommittal of Resolution From Rules Committee

§ 25.11 A motion to recommit a privileged resolution reported from the Committee on Rules is not in order.

On June 8, 1970,⁽³⁾ the House was considering House Resolution

1. 115 CONG. REC. 21676, 21677, 91st Cong. 1st Sess.

2. Chet Holifield (Calif.).

3. 116 CONG. REC. 18656–58, 18668–71, 91st Cong. 2d Sess.

976, establishing a select committee to investigate U.S. military involvement in Southeast Asia. After the previous question was moved, Mr. Jonathan Bingham, of New York, rose with a parliamentary inquiry:

MR. BINGHAM: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:⁽⁴⁾ The gentleman will state his parliamentary inquiry.

MR. BINGHAM: Will the Chair entertain a motion to recommit with an amendment to the resolution?

THE SPEAKER PRO TEMPORE: The Chair will state to the gentleman from New York that a motion to recommit is not in order on a resolution from the Committee on Rules.⁽⁵⁾

Divisibility of Motion

§ 25.12 A motion to recommit with instructions is not divisible.

On June 27, 1947,⁽⁶⁾ the House was considering the conference re-

4. Carl Albert (Okla.).

5. See also 101 CONG. REC. 1076-79, 84th Cong. 1st Sess., Feb. 2, 1955; 97 CONG. REC. 11394, 11397, 11398, 82d Cong. 1st Sess., Sept. 14, 1951; 89 CONG. REC. 233, 78th Cong. 1st Sess., Jan. 19, 1943; 88 CONG. REC. 6544, 77th Cong. 2d Sess., July 23, 1942; and 8 Cannon's Precedents §§ 2270, 2753. See *House Rules and Manual* § 729(b) (1981), for discussion of recommitment of special orders if the previous question is defeated.

6. 93 CONG. REC. 7845, 80th Cong. 1st Sess.

port on H.R. 3737, a bill to provide revenue for the District of Columbia. Mr. Joseph P. O'Hara, of Minnesota, offered a motion to recommit the conference report to the committee of conference with certain instructions to the House conferees. Mr. Everett M. Dirksen, of Illinois, then rose with a parliamentary inquiry:

MR. DIRKSEN: Would not the motion be divisible?

THE SPEAKER:⁽⁷⁾ A motion to recommit is not divisible.

§ 26. Purpose and Effect

Expression of Minority Opinion

§ 26.1 One purpose of the motion to recommit is to give those Members opposed to the bill an opportunity to call for a final expression of opinion by the House on the bill.

On May 15, 1939,⁽⁸⁾ the following occurred on the floor of the House:

THE SPEAKER:⁽⁹⁾ The unfinished business is the reading of the engrossed copy of the bill (H.R. 6260) making appropriations for the fiscal year ending June 30, 1940, for civil

7. Joseph W. Martin, Jr. (Mass.).

8. 84 CONG. REC. 5535, 5536, 76th Cong. 1st Sess.

9. William B. Bankhead (Ala.).